[श्री प्रमोद महाजन]

यह कहें कि यह नेशनल नेटवर्क पर आती थी, लेकिन वस्तु-स्थिति यह है कि यह कहीं चैनल-2 पर चली जाती थी और बाकी जगह नहीं पहुंचती थी। बम्बई में तो साढे 7 बजे यह कभी मिलती नहीं थी। इसलिये ससदीय समिति में सुझाव इस प्रकार का आया था कि 8.40 पर सायं समाचार होने से पहले 8.30 से 8.40 तक हिन्दी समीक्षा हो और अंग्रेजी न्यूज जो 9.30 से 9.50 तक होते हैं, उसके बाद 9.50 से 10.00 बजे तक अंग्रेजी समीक्षा हो, इस प्रकार की व्यवस्था की जाये तो शहरी और ग्रामीण इलाकों में सभी लोगो को हिन्दी तथा अंग्रेजी में संसद् समीक्षा देखने का अवसर मिल सकता है। लेकिन दुर्भाग्य यह है कि सूचना और प्रसारण मत्रालय के अधिकारियो ने इसको अलग करके साढे 11 बजे इसका समय रखा, यह गलत है। इसको समाचारो के पहले और न्यूज के बाद देना चाहिये।

श्री मीर्जा इर्शाद बेग (गुजरात): यह बिल्कुल सही सुझाव है। मै सम्पूर्ण रूप से इसका समर्थन करता हूं।

श्रीमती वीणा वर्मा (मध्य प्रदेश): उपसभापति महोदया, मै सूचना और प्रसारण मंत्रालय की समद सदस्यो की कंसलटेटिव कमेटी की सदस्या हू। मै महाजन जी से यही कहना चाहती हूं कि परिवर्तन हुआ थ। तो यही प्रस्ताव था कि संसद समीक्षा का समय बदला जाये। लेकिन समय बदलने का मतलब यह तो नही था कि ससद समीक्षा बिल्कुल हिन्दी मे सुनाई ही न जाय या अंग्रेजी में न सुनाई जाये। महोदया, बार-बार जनता की तरफ से मांग उठती है कि पार्लियामेन्ट की कार्यवाही टेलीविजन से दिखाई जाये। एक तरफ तो यह माग है और दूसरी तरफ यह कहां की नीति है कि उसका समय बदल कर बिल्कुल आधी रात का समय उसके लिये रखा जाये। अत: मैं महाजन जी ने जो कहा है, उसका समर्थन करते हुए समय के बारे मे जो उन्होंने अपनी राय दी है, उसी के अनुसार संसद समीक्षा आनी चाहिये, कह कर मै अपनी बात समाप्त करती हू।

SHRI V. GOPALSAMY (Tamil Nadu). Madam Deputy Chairman, up till now, Parliament News was being telecast—in Hindi—at 7.30 p.m and that in English after 11 30 p.m. We have been repeatedly demanding that Parliament News in English should be telecast between 7.30 and 8 30 p.m. If it is to put on the national hookup, it should be telecast as well as braodcast in all the regional languages, as Mr. Aruna demanded. We are very particular that the telecast and the broadcast should be before 8.30 p.m. because the non-Hindi-speaking people are deprived of the facility which the Hindi-speaking people are enjoying. Therefore, the Government should consider this demand. (*Interruptions*)

THE DEPUTY CHAIRMAN: I have asked the Minister of Parliamentary Affairs to convey the sentiments of the House to the Minister concerned.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI M. M. JACOB): I accept the proposal, to be conveyed. (*Interruptions*)

SHRI ALADI ARUNA alias V. ARUNACHALAM: That will be done by the Press also.

THE ADMINISTRATIVE TRIBUNALS (AMENDMENT) BILL, 1987—Contd.

THE DEPUTY CHAIRMAN: We now take up further discussion on the Administrative Tribunals (Amendment) Bill, 1987. Shri Kadharsha

SHRI M KADHARSHA (Tamil Nadu): Madam Deputy Chairman, this is a very simple Bill seeking to amend certain provisions in the original Act of 1985. In 1985, the Government was in a mad rush to push through this

Bill. At that time, Members from this side including our party suggested that the Bill was brought in haste and that it should be sent to a Select Committee. Had the Government listened to the valued opinion of the Opposition at that time, they would not have had to cut a sorry figure in the case of the Supreme Court judgement.

Madam, the Administrative Tribunals Bill was passed in January, 1985. But Government took a lot of time to appoint the Chairman of the Administrative Tribunal. He was appointed only in October, 1985. If they needed so much time, when they took so much time to appoint Chairman, what was the necessity for the undue hurry to push through the Bill. Even after the Chairman was appointed, the Benches were not set up. They were set up only in November, 1985. Within four months, Government came before the House with an amendment Bill. If I remember correctly, even this amendment Bill was brought forward to replace an Ordinance promulgated earlier by the President. Now, approximately after one year, Government have again come before the House with another amendment Bill in view of the Supreme Court judgement. This clearly shows that the Government brought forward the original legislation in a haphazard and hasty manner

As far as this Bill which is now before us is concerned, there are only three or four small amendments. Even in this Bill, there are some lacunae. I would like to invite the attention of the Minister to section 21 of the original Act. This limits the right of a Government servant to appeal before Tribunal. The period of appeal is one year after the orders are passed by the competent authority and six months if no orders are passed by the competent authority I would like to point out to the hon. Minister that in the Supreme Court case between G.P. Dowel and Chief Secretary of U.P., his case was taken up after 12 years, after the cause of action was noted. Now a government servant can file an appeal three years after the formation of the Administrative Tribunal. Madam, there is no justification to prescribe the time-limit as this will not help government servants in getting justice If justice is not given to a government servant in the Tribunal, the only remedy for him is to go to the Supreme Court. It is not possible for all government employees to go all the way to Delhi to file an appeal against the verdict. Many of them will not be able to afford the expenses and even if a case is taken up in the Supreme Court, there is also the possibility that it will be prolonged for a period of more than 10—12 years. So, I would suggest to the Government that administrative adalats should be constituted in every state capital so that they will process the grievances of the government employees and forward them.

Madam, the Supreme court has now given an important judgment and the striking feature of the judgment is that the appointment and promotion of the chairman, vice-chairman and members of the Administrative Tribunals should not be vested with Government because there is every possibility of their being biased and prejudiced from the Government side. Secondly, the Tribunals will lose their independent character That is why the Supreme Court has given this judgment. It is held that no secretary will be eligible for appointment as chairman of the Central Administrative Tribunal as this office is considered, for all practical purposes, equivalent to the office of the Chief Justice of a High Court. The Tribunals will be a real and effective substitute of High Courts but the Government has to make some more amendments because now there are two members in the Bench, one from judiciary and the other from administrative side If one member is absent or if one member is not appointed or if he is on leave, no case

[Shri M. Kadharsha]

will be considered by the Tribunal and it will again take so much time to get the grievances redressed.

Secondly, Madam, the reasons why these disputes arise do not subscribe to the issuance of orders by Government Secretaries. These disputes arise between the Government and the government servants. Of late, Government has become the biggest litigant in the country. According to the statistics there are more than 65000 cases in the High Courts and Supreme Court and 55 per cent of the cases are of the civil writes concerned with the disputes between the Government and the Government servants.

Though appointment of the Tribunal is a welcome measure, the Government has to pay more attention. This Tribunal is expected to bring speedy justice, but, Madam, there is shortage of staff. Even in Delhi, two posts were vacant and since there were vacancies, funds allotted to the Administrative Tribunal had to be surrendered. The shortage of staff should be removed. Now the Chairman has no powers to appoint officers. They have to depend purely on the deputationists and all those who work on daily wages. I would like to appeal to the Government that they should come forward with new rules for recruitment.

1 00 P.M.

Madam, the Administrative Tribunal is a marriage of the executive with judiciary. Because of undue haste on the part of the Government, it has resulted in miscarriage I hope that at least this Amendment Bill will rectify the deficiencies and defects In view of this, the Government should come forward and review the Bill in an overall manner, instead of framing piecemeal amendments to the original Act Thank you, Madam. . . . . .

श्री सत्य प्रकाश मालवीय (उत्तर प्रदेश) : माननीय उपसभापति महोदय, यह जो एडनिमिनिस्ट्रेटिव ट्रिब्यूनल बिल है, यह 1985 मे अधिनियम के रूप मे पारित हुआ था। जैसा कि उद्देश्य और कारणो मे बतलाया गया है, सर्वोच्च न्यायालय ने कोई निर्णय लिया जिसके फलस्वरूप यह संशोधन यहां पर लाना पड़ रहा है। यह बहुत ही छोटा सा विधेयक है, लेकिन मुझे कुछ सुझाव देने है। एक तो सैक्सन 6 का जो प्रिंसिपल है, उसमे जो योग्यता रखी गयी है, उसमे यह कहा गया है : The following clause shall be substituted, namely: "(a) is, or has been, or is qualified to be, a Judge of a High Court सिद्धात रूप में मैं इस बात मे सहमत नही हू कि कोई भी व्यक्ति जो उच्च न्यायालय मे हाईकोर्ट के जज पर काम कर रहा है। उसकी नियुक्ति किसी ट्रिब्यूनल मे की जाये। इसके लिये मेरा कारण यह है कि उच्च न्यायालय में ऐसे ही बहुत से पद रिक्त पड़े हुए हैं। केवल इलाहाबाद हाईकोर्ट मे इस वक्त करीब करीब ऐसे एक लाख मामले पिछले पाच वर्ष से वहां पर विचाराधीन है। यह भी यहां पर बतलाया गया है कि करीब-करीब 60 हाईकोर्ट के जजेज के पद भरे नही गये है। इसके अलावा यदि कोई व्यक्ति हाईकोर्ट का जज है उसकी प्रोन्नति सुप्रीम कोर्ट के जज पर हो, या दूसरे किसी हाईकोर्ट के चीफ जस्टिस पर हो तो यह बात समझ मे आती है, लेकिन सिद्धात रूप मे इस तरह के सिटिंग जज को ट्रिब्यूनल का मैम्बर बनाने पर मुझे आपत्ति है, मेरा पूरा विश्वास है कि सरकार या मंत्री जी इस ओर ध्यान देगे।

इसमे इस बात की व्यवस्था की गयी है जैसा कि स्टेटमेंट आफ आब्जेक्टिव्स एण्ड रीजन्स मे कहा गया है .

"The Chairman, Vice-Chairman and other Members of the Administrative Tribunal are being made eligible for re-appointment for a second term of office."

तो मेरा निवेदन यह है कि एक मरतबा इस पद पर किसी की नियुक्ति हो जाये उसके वेतन को बढ़ा दिया जाये, भत्तों को बढ़ा दिया जाये ठीक है लेकिन एक मरतबा इस ट्रिब्यूनल का मेम्बर बन जाये या चेयरमैन अथवा वाइस चेयरमैन हो जाये तो उसके कार्यकाल को नही बढ़ाना चाहिए क्योकि इस देश मे बहुत से योग्य व्यक्ति है न्यायविद है जो योग्यता रखते है, अत उनकी नियुक्ति करिये लेकिन पाच साल का किसी का कार्यकाल पूरा हो जाने के बाद अगर उसकी पुन नियुक्ति करिएगा तो मैं समझता हू कि वह व्यक्ति न अपने पद के साथ न्याय कर सकेगा न, जो काम उसको दे रहे उसके साथ न्याय करेगा ।

इसके अतिरिक्त अभी तक यह जो अधिनियम था यह निचली अदालत के कर्मचारियों या अधिकारियों पर लागू नहीं होता था, लेकिन आपने इसके बारे में व्यवस्था कर दी है और इस बात का मै स्वागत करता हूं । लेकिन इसी तरीके से इसमे एक बात का प्रावधान यह भी है :

"The provisions of this Act shall not apply to—

any person appointed to the secretariat staff of either House of Parliament or to the secretariat staff of the State Legislature or a House thereof, or in the case of Union Territory having a legislature, of that legislature."

एडमिनिस्ट्रेटिव ट्रिब्यूनल एक्ट जो आप सशोधित करने जा रहे है यह जो ससद के विधान सभाओ के या विधान परिषद के, कर्मचारी है उन पर लागू नहीं होता है । इनके साथ भी अन्याय होता है कल ही माननीय सुकुल जी ने इस ओर ध्यान आकर्षित किया है । राज्य सभा के जो कर्मचारी है उनके मामले की ओर ध्यान आकर्षित किया था । उन्होने कहा कि बार बार सभापति जी को पत्र लिखे गए सुझाव दिये गये लेकिन इसके बावजूद भी सन् 1958 मे जिन कर्मचारियो की भर्ती हुई थी, उन कर्मचारियो को छह-सात साल बाद 1964–65 मे जो कर्मचारी भरती हुए थे, उन्हें जूनियर बना दिया गया ।

तो आखिर अब यह लोग अदालत मे तो जा नही सकते, ससद के कर्मचारी है, राज्य सभा के कर्मचारी है, अदालत में नही जा सकते है और अगर वह समझते है कि हमारे साथ न्याय नही हुआ है, तो उनके लिए भी इसी प्रकार का कोई फोरम बन जाए, इसी प्रकार की कोई व्यवस्था की जाये तो हमारे ख्याल मे उन्हे संतोष भी होगा और जब कर्मचारियो मे संतोष होगा और उनको इस बात की आशा होगी कि हमारे साथ न्याय होगा, तो निश्चित तौर मे उनका असतोष दूर होगा ।

तो इसलिए मेरा यह भी सुझाव है और इस ओर भी मैं आपको ध्यान आकर्षित करता हूं । पूर्व मे मैंने जो सुझाव दिया था कि सिटिंग जजेज का रखा जाए और उन लोगो की पुन. नियुक्ति न की जाए इस ओर ध्यान दिया जाना चाहिए । जो साठ हाई कोर्ट जजेज के पद वैसे ही रिक्त हैं, हाई कोर्ट जजेज की अगर आप नियुक्ति करिएगा, तो फिर वहा स्थान खाली होगे और जो मामले उनके आगे विचाराधीन है, उनकी सख्या बढ़ती जाएगी । इसलिए इस ओर ध्यान देने की कृपा करिए ।

इसलिए मैं इन्ही शब्दो के साथ इस संशोधन विधेयक पर अपनी राय समाप्त करता हू ।

SHRI GHULAM RASOOL MATTO (Jammu and Kashmir): Madam Deputy Chairman, I rise to support the Bill. However, there are certain areas on which I want to make certain observations.

The honourable Minister has stated in the Statement of Objects and Reasons that "The Supreme Court, while disposing of the writ petitions, made certain directions for amending the Administrative Tribunals Act." But

Shri Ghulam Rasool Matto.

what directions have been given is not stated here, I would like to ask him if all the directions given by the Supreme Court have been incorpated in the amending Bill so that we will not have to come back again for amending certain other provisions to incorporate certain other directions that the Supreme Court has given.

The second point I would like to ask the houourable Minister is with regard to the constitution of the Tribunals. Here, Chairman, Vice-Chairman or other Member of an Administrative Tribunal are being made eligible for re-appointment for a second term of office I think this provision should not have been there, but if it should be there, it should have been accompanied by a Constitutional amendment. Under article 148 (4) of the Constitution, the Comptroller and Auditor-General cannot seek re-employment after his term is over Similarly, according to article 319, Members as well as Chairman of the Public Service Commission cannot be re-employed in other organisations. So that a Tribunal may not be a stepping stone for others to seek further gubernatorail and other posts, I think a provision should be made that after retirement they will not be eligible for appointment to any other post.

Now, under section 14(2) of the original Act the Government is empowered to bring the employees of public sector undertakings under the purview of this Act. This is being done because obviously, as the honourable Minister has stated in his opening remarks, not enough Benches are created. In the absence of enough Benches, I am afraid, we will be accumulating a large number of cases. I would like the honourable Minister to tell us in the course of his reply as to what his plans are during the next one or two years, say, by 1989, in which places he wants the Tribunals to be set up, so that we would know how soon the grievances could be redressed and, as in the case of the High Courts and the Supreme Court the cases do not get accumulated because otherwise it will be non-productive and the very purpose for which these Tribunals are constituted will be defeated—if there is stockpiling of cases and top priority is not given to them.

Lastly, Madam, I would like to know from the honourable Minister if any provision has been made for setting up a Tribunal in Jammu and Kashmir, though it is concerned with Central employees only

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES, AND PENSIONS AND THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Madam Deputy Chairman, I am grateful to the hon Members for the broad support that they have extended to this Amendment Bill, and I am also grateful to them for the suggestions made by them during the course of the debate.

Madam Deputy Chairman, let me assure the House that the review petition was heard by the Supreme Court on more than one occasion. The Attorney-General of India appeared for the Government of India, and the amendments that are now being made are pursuant to the suggestions and directions given by the hon. Supreme Court after considering the submissions of the Attorney-General of India. We think that with these amendments we would have made this Act comprehensive and put this Act beyond any further challenge in any court. We think that we have carried out every suggestion made by the hon Judges of the Supreme Court, and we have also implemented the directions given by them in their judgment in what is now known as the Sampat Kumaran case. We have also consulted the Attorney-General of India who has given us his opinion that these amendments would fulfil the submission made before the Supreme Court.

Some questions were raised by hon. Members during the course of the debate. Hon. Member, Mr. Dipen Ghosh

said that Government still goes on appeals against the CAT orders. But he also conceded that we had advised the Ministries and Departments that normally they should accept the orders of the Central Administrative Tribunal. But there may be a case where a question of principle is involved, interpretation of a rule is involved or interpretation of a section is involved. In such cases, in my humble view, the wholesome approach would be to implement the judgement in the case of the person who has secured the judgement and to file an appeal on the principle so that the principle can be settled. Particularly, if it involves a Group 'C' or Group 'D' employee, by implementing the judgement, the Government would have provided satisfaction to the Group 'C' or the Group 'D' employee, and by going in appeal on the question of principle, the principle can always be settled by a higher court. I am sure, the Ministries and Departments do not go in appeal frivolously and they do so only after taking legal advice But the word of caution uttered by the hon. Member, Mr. Dipen Ghosh, is well taken. I personally believe that unless it is a very important issue, and a very important question is involved, normally Government should accept the orders of the Central Administrative Tribunal.

Mr. Sukul wanted to know about the provisions for appeal. He said, we should provide for an appeal to the High Court I am afraid, there is a misunderstanding. These Tribunals are to replace the High Courts. We cannot provide an appeal to the High Court. An appeal can lie only to the Supreme Court I told him when he was speaking that there was a provision under section 24 for an interm order and that an interim order would include both an injunction and a stay In many cases the Tribunal has granted an injuction and has granted a stay

He wanted to know whether there was a time-limit for disposal of cases. while there is no specific time limit. I would only invite attention to section 22 sub-section (2) read with rule 14, sub-rule (2). The Act provides that the cases shall be heard and disposed of expeditiously, and the Rules provide that as far as possible the cases should be heard and disposed of within a period of six months from the date of taking the case on file.

As far as disposals are concerned, may I point out that the Tribunal Benches have been disposing of many more cases than one would have expected the High Courts to dispose of because the High Courts have been burdened with a large number of cases of other kinds. For example, the principal Bench and four other Benches were set up on the 1st of November, 1985. Now we have set up so far 14 Benches. In this period of two years they have disposed of 20,872 cases, which is—something which anyone who is acquainted with law will know—is a very good track record And we hope to be able to improve on this track record once we fill the vacancies and once we set up more Benches in more places.

There was some comment about excluded employees All I can say, Madam, is that the three branches of the State are very zealous in protecting their own rights. The judiciary does not want its employees to come under the purview of the Tribunal. Parliament and the Legislatures do not want their employees to come under the purview of the Tribunal I can make a law only for the executive branch of the Government. While I share the sentiments of the hon. Members, I have to respect the views of the judicial branch of the State as well as the.

SHRI GHULAM RASOOL MATTO: Not only respect, but also give your price of advice.

SHRI P. CHIDAMBARAM .as well as the legislative branch of the State. Perhaps a time will come after two years or three years or four years when the judicial branch and the legislative branch will revise their views and say, yes, our employees also can

Shri P. Chidambaram

go to tht Tribunal I can only hope for that day. I cannot possibly advise the judicial branch or the legislative branch.

There was some comment about the age limit. It is not unusual. In the High Court the age of superannuation is 62, in the Supreme Court the age of superannuation is 65 We have provided the age of superannuation of 62 for the Member and age of superannuation of 65 for the Vice Chairman and the Chairman As the hon. Member, Mr. Nirmal Chatterjee observed, a Member can become a Vice Chairman or Chairman and in order to provide for this advancement of the Member as Vice-Chairman or Chairman, we have deliberately kept the age of superannuation as 62 for a Member and 65 for Vice Chairman or Chairman. This provision has been upheld by the Supreme Court.

A number of Members mentioned about the public sector employees. It is true that we have not yet notified public sector corporations under the Act. There is power under Section 14(2). The only reason why we have not notified so far is because we do not have enough benches and we do not have enough Members for the benches. As I said in my opening remarks for the last six months the process has been interrupted because of pending litigation Now that the litigation is over and this Bill is being passed in Parliament, hopefully by the end of the session, we hope to appoint more Members, fill the vacancies and constitute more benches. Once we do that, then we can progressively bring in the public sector employees under the scope of the Act.

Mr. Matto, finally, referred to the need to prohibit Members from taking up another employment. Apparently, he did not see Section 11. Section 11 of the Act does prohibit employment of a member in any other capacity Section 11 provides for prohibition of employment under the Central Government or State Government of any Member The only place where he can be re-employed is in the same tribunal in the same capacity for a second term of five years.

Madam, I hope I have covered all the questions raised by the hon. Members. I am grateful for their support.

THE DEPUTY CHAIRMAN: The question is.

'That the Bill further to amend the Administrative Tribunals Act, 1985, be taken into consideration.'

The motion was adopted.

THE DEPUTY CHAIRMAN: We shall now take up clause-by clause consideration of the Bill.

Clauses 2 to 6 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI P. CHIDAMBARAM: I move:

"That the Bill be passed."

The question was put and the motion was adopted.

THE DEPUTY CHAIRMAN: Now we take up the next item on the agenda.

THE COMPTROLLER AND AUDITOR GENERAL'S (DUTIES, POWERS AND CONDITIONS OF SERVICE) (AMENDMENT) BILL, 1987

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI JANARDHAN POOJARI): I beg to move:

"That the Bill further to amend the Comptroller and Auditor Generals (Duties, Powers and Conditions of Service) Act, 1971, as passed by the Lok Sabha, be taken into consideration."